

Quarterly Report
of the
ATTORNEY GENERAL
of
ALABAMA



For The Period
From April 1, 1962
Through June 30, 1962

VOLUME 107

MACDONALD GALLION, Attorney General



T. O. "Tillie" Walker

QUARTERLY REPORT
of the
ATTORNEY GENERAL

of
A L A B A M A
For the Period
From April 1, 1962
Through June 30, 1962

TO THE STATE, COUNTY, AND MUNICIPAL OFFICERS
OF ALABAMA:

This Quarterly Report of the Attorney General of Alabama, which includes all official opinions rendered by the Attorney General from April 1, 1962, through June 30, 1962, is published in compliance with the provisions of Title 55, Section 228, Code of Alabama 1940.

Under this section of the Code, I am required to send seven copies of this Quarterly Report to each judge of probate in the State and the judge of probate, in turn, is required to deliver one copy each to the clerk of the circuit court, the sheriff, the tax collector, the tax assessor, the county superintendent of education, and the deputy or county solicitor of his county. This section also requires that I send a copy of this report to each circuit solicitor and the chief executive officer of each incorporated municipality in the State.

The office of the Attorney General is anxious to render prompt and efficient service to the State, county, and municipal officials. If you have any suggestions to make regarding the improvement of the service, I shall be glad to hear from you.

Sincerely,

MACDONALD GALLION
Attorney General

MACDONALD GALLION

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OPINIONS

April 6, 1962

Honorable W. Johnson McCall
City Attorney
City of Thomasville
Thomasville, Alabama

Licenses — Municipalities — Taxes.

1. A municipality may impose a license tax upon a gas district created under Act No. 762, Acts of Alabama 1951, page 1319, which does business in such municipality.
2. A municipality may not, without specific statutory authority, impose a tax upon another municipality or another subdivision of the State which has power to levy taxes.

Opinion by Assistant Attorney General Gish.

Dear Sir:

Your request for an official opinion, under date of March 22, 1962, is as follows:

"Does Section 402(62) of Title 37, Code 1940, exempt a gas district, organized under the provisions of Section 402(47 et seq.), from payment of a privilege license levied by a municipality in which the district is doing business?"

The statute to which your request refers is Act No. 762, Acts of Alabama 1951, page 1319. This statute authorizes any two or more municipalities to cause a gas district to be organized as a public corporation.

Section 16 of Act No. 762, *supra* (Title 37, Section 402(62), Code of Alabama 1940, recompiled 1958), reads as follows:

"All property and all income of any district incorporated under this act shall be exempt from all state, county, municipal and other taxation in the State of Alabama. All bonds of such district and the interest thereon shall be exempt from all state, county, municipal and other taxation in the State of Alabama. All deeds, mortgages, indentures of trust and other documents executed by or delivered to any such district shall be exempt from all state, county and municipal and other taxation in the State of Alabama."

The first question presented by your request is whether the provision found in Section 16, *supra*, which exempts the property and income of the gas district from taxation, prohibits a municipality in which such gas district is doing business from imposing a license tax thereon.

A municipality is authorized to levy license or privilege taxes on businesses, trades and occupations within its corporate limits and its police jurisdiction, under Title 37, Chapter 15, Article 3, Code of Alabama 1940, as amended. Title 37, Section 745, Code of Alabama 1940, as amended by Act No. 613, Acts of Alabama 1949, page 945, prescribes the maximum amount of such license or privilege taxes which a municipality may assess against gas companies and certain other public utilities.

A license or privilege tax is not a tax upon property or income. **Estes et al v. City of Gadsden et al**, 266 Ala. 166, 94 So. 2d. 744. Therefore, a statutory provision exempting a public utility from property and income taxes does not exempt such utility from a license or privilege tax properly assessed against it. Cf. **City of Anniston v. State**, 265 Ala. 303, 91 So. 2d 211.

Thus, a municipality is not prohibited by Section 16, *supra*, from imposing a license or privilege tax upon a gas district of the type here considered. Cf. **Young Men's Christain Association of Birmingham v. State**, 265 Ala. 640, 93 So. 2d 781.

Another question presented by your request is whether a municipality may impose a tax upon a public corporation.

The statutes codified in Article 3, *supra*, which authorize a municipality to impose a tax upon gas companies are in general terms and do not contain therein any specific authority to levy a tax on a governmental agency or public corporation operating a gas system within the corporate limits or police jurisdiction of such municipality. Therefore, the general terms used in said statutes would not suffice as a grant of authority to a municipality to impose a license or privilege tax upon another municipality or similar subdivision of the State. Cf. Quarterly Reports of Attorney General, Vol. 86, page 40 and Vol. 77, page 49.

The so-called rule of exemption, stated in the preceding paragraph, is based upon the theory that a municipality or another subdivision of the State must levy a tax to pay a tax. The courts will not ordinarily presume that this was intended by the legislature. **Long v. Roberts & Son**, 234 Ala. 570, 176 So. 213, and **State v. City of Montgomery**, 228 Ala. 93, 151 So. 856.

Said rule of exemption is not applicable to a gas district created under the provisions of Act No. 762, *supra*, since such district has no

power to levy a tax but obtains its funds from the sale of natural gas. Therefore, this rule does not prohibit a municipality from levying a tax upon a gas district of the type here considered.

Premises considered, I am of the opinion that a municipality in which such a gas district is doing business may impose a license or privilege tax thereon.

Very truly yours,

MACDONALD GALLION
Attorney General

April 10, 1962

Honorable Julian Swift
Clerk of the Circuit Court
Tenth Judicial Circuit
Birmingham, Alabama

Bail — Bonds — Insurance.

Act No. 946, General and Local Acts 1961, amending Title 15, Section 201, Code of Alabama 1940, relating to the surety bond required by persons engaged in the business of making bail bonds is applicable to all bail bondsmen doing business after the effective date of such Act.

Opinion by Assistant Attorney General Clark.

Dear Sir:

Your request for an official opinion, bearing date of March 14, 1962, is as follows:

“The qualifications of Bail for those persons in the business of making Bail Bonds and charging therefor is set out in Section 201 of Title 15 Code of Alabama 1940 as amended in pocket part.

“Two or three Bail Bond Companies qualified under this section by filing the Surety Company Bond required by same.

“One of the Insurance Companies acting as Surety for the Bail Bondsmen attempted to cancel their bond through court action and in view of the State of Alabama being a party to the Bond with no provision in the law for cancellation of same, the court

held the Insurance Company (Surety) could not cancel the bond and it is the further general legal opinion that the \$10,000 Surety bond is not limited to \$10,000 but is liable for each Bail Bond to the extent of \$10,000.

"Act No. 946 regular session of the Alabama 1961, purports to amend the above quoted section by limiting the total liability of the Insurance Company to \$25,000 and providing for a cancellation clause.

"In view of the fact the Insurance Company Bonds filed under the first Act cannot be cancelled and the two or three Bail Bondsmen have contracted with State by filing said Bond, what effect if any does Act No. 946 of 1961 Acts have on those Insurance Company Bonds filed and approved by the Probate Court prior to passage of Act No. 946 of 1961 Acts, your answer to this question may be confined only to the question of the doing of business by those Bail Bondsmen after passage of Act No. 946 who had qualified prior to passage of the 1961 Act."

Act No. 946, General and Local Acts 1961, approved September 9, 1961, provides as follows:

"Section 1. Section 201 of Title 15, Code of Alabama 1940, as amended, is amended further to read as follows:

"Section 201. The qualifications of bail are, that each must be a resident of this State, and a householder and freeholder therein, and that each must be worth, exclusive of property exempt from execution, the amount expressed in the undertaking; but the court, magistrate, or office, in taking bail, may allow more than two persons to justify severally as bail in amounts less than that expressed in the undertaking, provided the whole be equivalent to two sufficient bails; or the court, magistrate, or officer, in taking bail, in lieu of the foregoing, may allow a corporation, foreign or domestic, qualified to do a bonding business in this state, and authorized to execute the undertaking of bail, to execute such bail. Every person engaged in the business of making bail bonds and charging therefor, except corporations qualified to do a bonding business in this state, in addition to all other requirements of this section, shall be required to furnish a bond with corporate surety in the amount of twenty-five thousand dollars, to be approved by the probate judge of each county in which such person engaged in such business, conditioned to guarantee the payment of all sums of money that may become due the State or any political subdivision thereof by virtue of any judgment absolute being rendered against said person on a forfeiture of bail. Only one such bond shall be required in each county where such person does business, and the liability of the surety company executing a bond here-

under shall not exceed the face amount of such surety bond provided, however, that the bond may be cancelled as to any future liability at any time by the Surety giving thirty days written notice of such cancellation to the Probate Judge of the County in which the bond is filed.'

"Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

"Approved September 9, 1961.

"Time: 10:45 A.M."

There are three significant changes in Act No. 946, supra: first, the bond is raised to twenty-five thousand dollars; second, the surety's liability is limited to the face of the bond; and third, the surety can cancel the bond by giving thirty days notice.

It is my opinion that the provisions of Act No. 946, supra, are applicable to all persons operating a bail bond business after the effective date of such Act. However, as to bails written prior to that date, the surety bond executed under Act No. 199, General and Local Acts 1949, page 230 (Title 15, Section 201, Code of Alabama 1958, Recompiled) remains in effect.

Yours very truly,

MACDONALD GALLION
Attorney General

April 17, 1962

Honorable John C. Curry
Savings and Loan Commissioner
Department of Banking
CAPITOL

Banks and Banking — Savings and Loan Associations.

State chartered Savings and Loan Associations are permitted to pay on or after June 30, 1963, quarterly dividends as permitted to be paid by Federal Savings and Loan Associations operating in Alabama.

Opinion by Assistant Attorney General Clark.

Dear Sir:

Your request for an official opinion dated April 5, 1962, is as follows:

"In re: Dividends Payable by State Chartered Savings and Loan Associations.

"In the administration of the laws relating to State chartered savings and loan associations a question has arisen as to the applicability of certain rules and regulations of the Federal Savings and Loan System to such State chartered associations.

"Section 225 of Title 5 of the Code of Alabama for 1940, as recompiled in 1958, provides, in part, as follows:

"P. 225. DIVIDENDS. — As of June thirtieth and December thirty-first in each year, the board of directors shall declare a dividend payable on July first and January first of each year, respectively, or if either such date be a legal holiday, on the next succeeding business day. No dividends shall be declared except dividends payable on said dividends dates."

"A recent regulation issued by the Federal Home Land Bank Board, effective December 22, 1961, (Title 12 U.S.C. — Banks and Banking, Chapter V — Federal Home Loan Bank Board Subchapter C — Federal Savings and Loan System, Part 545 — Operations) Provides, in part, as follows:

"(b) Quarterly. A Federal association which has a charter in the form of Chapter N or Charter K (rev.) may, after adoption by its board of directors of a resolution so providing and while such resolution remains in effect, distribute earnings on savings accounts as of March 31, June 30, September 30, and December 31 of each year, or as of the last business day of each March, June, September, and December, after providing as of March 31 and September 30 for the payment of expenses, and for the pro rata portion of credits to reserves required by section 10 of Charter N and Charter K (rev.) for the six-month period ending on June 30 and December 31, respectively, next succeeding: **Provided**, That no such Federal association may so distribute earnings prior to June 30, 1963 if the home office of such Federal association is in a State, district, or territory (including Puerto Rico, Guam and the Virgin Islands) where building and loan or savings and loan associations, homestead associations, cooperative banks, or mutual savings banks are prohibited by the laws of such State, district or territory from distributing earnings quarterly."

"By Act No. 120, of the legislature of Alabama, approved June

16, 1945 (now incorporated in the recompiled Code as Paragraphs 260 and 261 of Title 5) the Alabama chartered savings and loan associations were given additional power to avail themselves of certain

“‘ . . . rights, or privileges which may at any time be available or inure to savings and loan associations or to their members, creditors, conservators, receivers, or liquidators by virtue of the provisions of any federal statute which established the federal home loan bank or the federal savings and loan insurance corporation and provided for the insurance of accounts of any savings and loan association, or of any other provision of that or any other act or resolution of congress to aid, regulate, or safeguard savings and loan associations and its members, including any amendments to the same or any substitutions therefor; . . . ’

“From above quoted regulation, applicable to Federal associations, you will observe that on and after June 30, 1963, the Federal associations will be permitted to pay quarterly dividends irrespective of the provisions of State law.

“If the provisions of Paragraph 225 of Title 5 of Alabama Code continue as a restriction upon State chartered associations, then such State associations shall be limited to payment of dividends semi-annually. This would place them at a distinct disadvantage in attracting shareholders’ funds when competing with Federal associations.

“Apparently the legislature, in adopting the 1945 Act, above quoted, attempted to place State chartered associations on an equal competitive basis with Federal chartered associations.

“We ask your opinion as to whether or not the provisions of Act No. 120 (now paragraphs 260 and 261 of the Code of 1940) are broad enough to permit State chartered savings and loan associations to pay quarterly dividends by reason of the Federal Home Loan Bank Board regulation quoted above authorizing Federal associations to pay quarterly dividends in this State on and after June 30, 1963.

“Your answer to the question here presented will be most helpful in our efforts to properly advise the State chartered savings and loan associations.”

Act No. 120, General Acts 1945, page 113, approved June 16, 1945 (Title 5, Sections 260, 261, Code of Alabama 1958 Recompiled), provides as follows:

“Section 1. That any Savings and Loan Association now or hereafter organized under the laws of this State is hereby empowered, on the authority of its Board of Directors, or a majority thereof, to enter into such contracts, incur such obligations, and generally to do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to take advantage of any

and all memberships, loans, subscriptions, contracts, grants, rights, or privileges which may at any time be available or inure to Savings & Loan Associations or to their members, creditors, conservators, receivers, or liquidators by virtue of the provisions of any Federal statute which established the Federal Home Loan Bank or the Federal Savings & Loan Insurance Corporation and provided for the insurance of accounts of any Savings & Loan Association, or of any other provision of that or any other Act or resolution of Congress to aid, regulate, or safeguard Savings & Loan Associations and its members, including any amendments to the same or any substitutions therefor; also to subscribe for and acquire any stock, debentures, bonds, or other types of securities of the said Corporation and to comply with the lawful regulations and requirements from time to time issued by such Corporation.

"Section 2. That any Savings & Loan Association which is organized under and by virtue of applicable statutes of the State of Alabama and operating under the laws of the State of Alabama may make any contract, loan, or investment which such Association could make were it incorporated and operating as a Federal Savings & Loan Association with its domicile in this State.

"Section 3. That all laws and parts of laws in conflict with the provisions of this Act are hereby expressly repealed.

"Section 4. That this Act shall take effect immediately upon its passage and approval by the Governor.

"Approved June 16, 1945."

If Section 225, *supra*, is to be strictly construed then it is obvious that there may be two and only two dividends declared: one payable on July first and one on January first.

The legislative intent of Act No. 120, *supra*, was to give to the State laws governing savings and loan associations that degree of flexibility necessary to compete with like federal associations. And while it did not specifically repeal Section 225 at that time, it is now apparent that a restriction of payment of dividends to a semi-annual basis is in conflict with the later act (Act No. 120, *supra*) in view of the recent regulation of the Federal Home Loan Bank Board, effective December 22, 1961, authorizing payment of quarterly dividends by Federal associations in this State on or after June 30, 1963.

Where there is conflict in two acts, the provisions of the later act govern. Quarterly Report of Attorney General, Vol. 95, page 41.

In my opinion, your question should be answered in the affirmative.

Yours very truly,

MACDONALD GALLION
Attorney General

May 9, 1962

Honorable W. A. LeCroy, Superintendent
State Department of Education
State Office Building
Montgomery 4, Alabama

Schools — Textbooks — State Board of Education

1. Existing textbook contracts may be extended at least once for a period not exceeding four years at reasonable prices by the State Board of Education provided:

A. The books are still deemed suitable and desirable by the textbook committee, and

B. The reasonable price is, when all things are considered, to the best interests of the pupils and patrons of the public schools of this state.

Opinion by Assistant Attorney General Madison

Dear Mr. LeCroy:

Your request for an official opinion bearing date of March 30, 1962 is as follows:

"You may recall that for many years the State Board of Education adopted textbooks for a period of six years. Under this plan all changes occurring in textbooks for grades 1-12, inclusive, were made at the same time. In recent years, textbooks in certain fields have been considered each year by the State Textbook Committee and adoptions made for a period of four years.

"While it may be desirable to change textbooks in some subject-matter fields every four years, it is my opinion that there are other subject-matter fields in which changes every four years are unnecessary. Since the public schools have suffered heavy proration during the past five years and since the 1961 Legislature made a drastic reduction in the appropriation for the purchase of free textbooks, it is especially urgent that every possible economy be exercised in providing textbooks regardless of whether they are to be furnished by the State or purchased by the patrons of public schools.

"This leads me to request your official opinion in answer to the following question:

"Can the State Board of Education legally extend existing textbook contracts at current prices for a period of two years or for a period to be determined by the Board?

"Your usual prompt attention to this matter will be greatly appreciated."

In response to my request for clarification of your question, on April 3, 1962, you responded as follows:

"In response to your letter of April 2, let me say that I am familiar with Section 7 (b) of Act No. 581, General Acts 1959, and I realize that any existing textbook contracts cannot be extended under any condition except by agreement of the parties thereto.

"In the event the State Board of Education should see fit to extend any existing textbook contracts when the present contracts expire, can the State Board of Education legally extend them at higher prices than the prices shown in the original contracts, or would the contracts have to be extended at the same prices which prevailed when the contracts were extended?"

By Act No. 581, General and Local Acts 1959, page 1458, the State Textbook Committee is composed of fourteen members appointed by the State Board of Education upon the nomination of the State Superintendent of Education.

The Textbook Committee is required to meet annually in Montgomery, Alabama, not later than October 15, and the recommendations of the Textbook Committee shall be made to the State Board of Education, not later than December 15.

The State Textbook Committee recommends the three most meritorious and desirable books for each subject. Section 6 of Act No. 88, General and Local Acts 1951, page 307.

At its annual meeting, the State Textbook Committee shall determine the subjects or subject matter fields in which changes in textbooks are desirable. Each textbook listed on any current adoption shall be reviewed as to its merit, suitability, and desirability at least once every four years.

Sealed bids or proposals by publishers shall be for furnishing books for the period of time designated by the State Board of Education. Section 3 of Act No. 412, General Acts 1945, page 647.

It is provided by Act No. 581, Section 7(b), *supra*, as follows:

"The State Board of Education shall have full power to provide

for textbooks for the public schools of the State, to adopt a multiple list of textbooks where practicable and desirable in the judgment of the Textbook Committee and State Superintendent of Education, and to contract with **and/or extend textbook contracts** with the publishers for such textbooks, provided that such textbooks have been determined as **suitable and desirable** by the **State Textbook Committee**. . ." [Emphasis supplied]

It is also provided that the State Board of Education shall have full power to adopt any textbook or textbooks for such period of time as it deems to the best interest of the patrons and pupils of the public schools.

The State Board of Education is also authorized by Section 7(c) of Act No. 581, supra, to enter into contracts for furnishing of said textbooks upon such terms as said board deems to the best interest of the patrons of the public schools.

In approaching your specific question, it must be assumed that the contracts sought to be extended are valid, binding and made in compliance with the law relating thereto.

The merit, suitability and desirability of books for patrons and pupils of the public schools and contracts upon terms which are for their best interest seems to be the guiding light relative to the matter under consideration.

If the Textbook Committee still approves the use of the textbooks for which existing contracts are sought to be extended at the time of extension, the contracts may be extended at least once for a period not exceeding four years by the State Board of Education. This may be done at the same or at a reasonable different price in my opinion, if after **all things are considered**, the books are still suitable, desirable, and their merit and price is considered by the said Textbook Committee and the State Board of Education to be for the best interest of the patrons and pupils of the public schools of this state.

It is pointed out herein that there may be a large number of textbooks in the hands of pupils and patrons of the public schools of this state under existing contracts which could be used again under the provisions of this opinion.

If, however, the contracts could not be extended, it might result in those textbooks covered thereby becoming valueless by the substitution of new textbooks. This would entail additional cost to the pupils and patrons and might not be to their best interests.

Yours very truly,

MACDONALD GALLION
Attorney General

June 11, 1962

Honorable Earl M. McGowin, Director
Alabama State Docks Department
Mobile, Alabama

Alabama State Docks Department — Employment, Employers and Employees — Government — Health and Health Department — Insurance — Officers and Offices

1. Pursuant to Act No. 376, General Acts of Alabama, 1947, page 267, approved August 16, 1947, as last amended by Act No. 925, Acts of Alabama 1961, Regular Session, approved September 13, 1961, Alabama State Docks Department may pay from its funds all or part of premiums for policies of group life, health, accident and hospitalization insurance, or any one or more of them, on its officers and employees who have elected to participate in such group insurance program.

2. When authorized in writing, the Docks Department may make premium deductions from the compensations of officers and employees for that part of a premium applicable to insurance covering their dependents, but the expense of these deductions must be borne by the officers or employees affected.

Opinion by Assistant Attorney General Madison

Dear Mr. McGowin:

Your request for an official opinion is as follows:

"Your opinion is requested on the following questions:

"1. Under Title 28 Section 347 et seq., as last amended and other applicable State Laws, can the Alabama State Docks Department pay from its funds all or a part of the premiums for a plan of Group Life Insurance and Group Hospitalization Insurance on its officers and employees who have elected in writing to participate in such group insurance program?

"2. When authorized in writing by such an officer or employee, may the Alabama State Docks Department make deductions from the compensation of such officer or employee for that part of the premium applicable to insurance covering the dependents of such officer or employee?"

Act No. 164, General Acts 1943, page 154, provided the following in part:

"The governing bodies of every State department, county, municipality, board, commission, or subdivision of the State of Alabama shall have the jurisdiction and power to adopt and carry into effect a system of group life insurance and group hospitalization insurance, or either, for the benefit of such of their officers and employees as shall or may elect to accept the same and who have authorized in writing the governing body to make deductions from their compensation as hereinafter provided."

In **Opinion by the Justices**, 249 Ala. 88, 30 So.2d 14, the Supreme Court declared the Act to be so uncertain and indefinite as to render it inoperative and void. The court placed emphasis on the wording "Governing body of every state department," stating that in some instances the governing body would be wholly uncertain. The court also stated:

"The act also applies to every board, commission or subdivision of the State. The institutions of learning maintained by the State are agencies of the State, as well as the institutions for the mental deficient, and, indeed, many other agencies unnecessary to mention. **It is uncertain whether or not the Act is intended to apply to all boards of education or to all institutions such as we have indicated.**" [Emphasis supplied]

Subsequent to the above decision, Act No. 376, Regular Session 1947, was passed and Section 1 of that Act, as amended by Act No. 925, General and Local Acts 1961, page 1484, now reads as follows:

"Section 1. The council, commission or similar governing body of each municipal corporation; the board of directors of each incorporated municipal board; the court of county commissioners, board of revenue or similar governing body of each county; the board of education of each city; the board of education of each county; the board of directors of any county or municipal hospital; and the board of trustees, board of managers, board of control or similar governing body of each state agency or institution of education, learning, training or correction, or for the delinquent, insane, sick, deaf, dumb, blind, needy, juvenile or aged now existing or hereafter established, shall have power and authority to contract for and obtain and maintain policies of group life, health, accident, and hospitalization insurance, or any one or more of them, and shall have power and authority to contract for and obtain and maintain individual annuity contracts, retirement income policies or group annuity contracts to provide a retirement plan, for the benefit of such of the officers and employees of such municipality, incorporated municipal board,

county, board, agency or institution as may be determined by such governing body and as shall or may elect to accept the same, and who have authorized in writing such governing body to make deductions from their compensation to pay premiums on any such policy or policies if such premiums be payable in whole or in part by such officer or employee. The term 'insurance', as used in this act, includes the term 'annuity', and the term 'policy' includes the term 'contract'."

The above pertinent events indicate to me the legislative intent to clarify and make certain that which had theretofore been declared by the court to be indefinite and uncertain, and the word "or" as it appears after "state agency" and before "institution of learning" is to be construed in this light.

Especially do I point out that Section 1 of said Act No. 925 provides as here pertinent:

". . . and the board of trustees, board of managers, board of control or similar governing body of each state agency or institution of education, learning, training or correction . . . shall have power and authority to contract for and obtain and maintain policies of group life, health, accident and hospitalization insurance . . ." [Emphasis supplied]

Clearly, Act No. 164, *supra*, intended to and did cover every state department. The trouble arose with the act in the use of the words "governing bodies" as heretofore pointed out and the failure to designate the boards of education and institutions intended.

I find nothing in Section 1 of Act No. 925, *supra*, or elsewhere, which indicates that the Alabama State Docks Department does not or should not come within the language "board of trustees, board of managers, board of control, or **similar governing body of each state agency**."

It is a state agency made so by statute. Act No. 103, General and Local Acts 1955, page 346. The said act also provides that where, at the effective date of the act, any statute used the words "Alabama State Docks Board," they shall be construed to mean the Alabama State Docks Department.

As now constituted, the Alabama State Docks Department has a director, general manager, general manager of operations, secretary-treasurer, and an advisory committee, consisting of the Governor and the director of State Docks, *ex officio*, and ten other appointed members.

The State Docks Department has all of the rights, powers, duties,

and obligations of the Alabama State Docks Board, which was the former governing body of this state agency.

Act No. 376, General Acts 1947, page 267, used the language "board of trustees, board of managers, board of control or similar governing body," the same as now used in said Act No. 925.

In 1951, by Act No. 189, General and Local Acts 1951, page 450, the Alabama State Docks Board was created, with supervision, control, management, and direction of the state docks and terminals. It is certain, as then managed, the docks agency comes within the words "board of managers, board of control, or similar governing body," as used in the 1947 Act.

The Alabama State Docks Department now possessing all of the rights, powers, duties, and obligations of the Alabama State Docks Board, including the insurance rights which the Docks Board had in 1951, and there appearing nothing which shows any intent to deprive the department of those rights, it still possesses them.

The effect of this opinion is to say that the Alabama State Docks Department has the authority to contract for the insurance provided for by Act No. 925, *supra*. Whether or not other state agencies may do so is not before me.

Your second question is answered in the affirmative, understanding as I do that no part of the premium is being paid by the state agency for dependents and subject to the qualification that the expense attending such deductions must be borne by the officers and employees affected. Quarterly Report of Attorney General, Volume 87, page 35; Act No. 925, *supra*.

Yours very truly,

MACDONALD GALLION
Attorney General

I N D E X

**QUARTERLY REPORT OF THE ATTORNEY GENERAL FOR THE
PERIOD FROM APRIL 1, 1962 THROUGH JUNE 30, 1962**

VOLUME 107

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